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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,119	06/24/2003	Peter J. Coyle	SAR 14779	2215
7590 08/05/2005 Moser, Patterson & Sheridan, LLP Suite 100 595 Shrewsbury Avenue Shrewsbury, NJ 07702			EXAMINER ROGERS, DAVID A	
			ART UNIT 2856	PAPER NUMBER

DATE MAILED: 08/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/603,119

Applicant(s)

COYLE ET AL.

Examiner

David A. Rogers

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 2-8, 18-23, 25, 26, 28-30 and 32-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 9-12, 24, 27 and 31 is/are rejected.
- 7) ☒ Claim(s) 13-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claim 14 is hereby rejoined in view of the indicated allowability of dependent claim 13.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1, 9-12, 31 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by United States Patent Application Publication 2004/0107782 to Bradley *et al.*

Bradley *et al.* discloses an apparatus for collecting airborne particulates comprising a separation section (reference item 58) in the form of a cap, a capture section (reference item 46) containing a liquid, and a hydrophobic membrane filter (reference item 24) that separates the separation section from the capture section.

The capture section has at least one channel disposed adjacent the separation section, i.e., the conduit in figure 5 that is immediately below the hydrophobic membrane. This conduit is in the capture section and can, therefore, be filled with liquid. Furthermore, the applicant's response to the

previous office action states that devices for use in a microfluidic environment have dimensions "ranging from millimeters down to micrometers". As seen in the provisional application of Bradely *et al.*¹ the above mentioned channel has a nominal diameter of 0.25 inches, which is about 6.35 mm. This meets the applicant's supplied definition of "millimeters".

At the lower end of the capture chamber is a drain (reference item 50). This drain is inherently adapted to allow the fluid to be transported to an analysis device.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bradley *et al.* in view of United States Patent 6,520,034 to Masquelier *et al.*

Bradley *et al.* teaches the claimed apparatus except for the express recitation of an analyzer coupled to the sampler.

¹ The provisional application of Bradley *et al.* is 60/360,400 filed 27 February 2002. This application is a copy of the "Final Research Report - SBIR A002-0576 Phase I", Rocky Mountain Research Labs, Inc., 28 September 2001.

Masquelier *et al.* teaches a particle collection apparatus comprising a fluid reservoir (reference item 23) for trapping particulates. The reservoir has a lower channel (reference item 24) that can be coupled to an analysis device (reference item 29).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Bradley *et al.* with the teachings of Masquelier *et al.* in order to provide an analyzer to a collection apparatus in order to quickly determine the presence of dangerous particles in the air.

Allowable Subject Matter

6. Claims 13-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

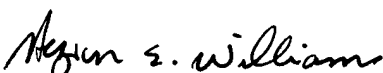
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Rogers whose telephone number is (571) 272-2205. The examiner can normally be reached on Monday - Friday (0730 - 1600).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


dar
04 August 2005


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
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